

Approved Minutes
MAIDSTONE SPECIAL PLANNING COMMISSION MEETING
Thursday, January 5, 2023, at 6.00pm
Held by Zoom Video Conference

Members present (via Zoom): Chris von Alt, Bob Champagne-Willis, Bruce Barker

Other members of Town Government present (via Zoom): Town Clerk and Lister Amy Pear; Assistant Town Clerk Suzy Irwin; Selectboard Member and Road Commissioner Brad McVetty; Selectboard Chair Scott Lovell; Lister and Health Officer Sandy Gray; Administrative Assistant to the Selectboard, Zoning Board, and Planning Commission Mary von Alt

Also present via Zoom: Jim and Sherry Bennett, Mike Otis, Laurie and Bob Snowman, Alexa Bernotavicz, Ed Tully, Dave Kamins, Morgan MacDonald, Lin Mixer, Doug Lord, Burt and Carol Kline

Chairman Chris von Alt called the meeting to order at 6.01pm.

APPROVE MINUTES:

Bob Champagne-Willis made a motion to approve the draft minutes from November 30th; Bruce seconded the motion. All voted in favor.

Bob made a motion to accept the minutes from the Special Planning Commission Meeting on December 15th; Bruce seconded the motion. All voted in favor.

REVIEW LETTERS OF INTEREST RECEIVED FOR ZONING ADMINISTRATOR POSITION; DECIDE WHICH APPLICANT TO NOMINATE FOR THE POSITION:

Three letters of interest were received in response to the posting of the Zoning Administrator vacancy. The posting stated that such letters must be received at Town Hall by 12.00pm on Thursday, January 5, 2023. A letter of interest was received from Mike Otis on 12/22 and one from Alexa Bernotavicz today at 9.35am. Another letter was received this afternoon from Sean McCarthy; that application was considered by the Planning Commission despite it having been submitted after the deadline. Each Planning Commission member reviewed all three letters.

Bob moved that we nominate Mike Otis for the position of Zoning Administrator; Bruce seconded that. Chris called for the ensuing discussion that included:

- Bruce asked if we could nominate more than one person; both Bob and Chris said they did not think so. Bruce quoted from the Manual of Procedures for Administration and Enforcement of Vermont Zoning Bylaws published in 2009 by the Vermont Planning and Information Center (VPIC), which uses the word “nominates”; this is a rephrasing of the Vermont Statutes.
- Bob said that he was grateful that three people from the community expressed an interest in this position; Chris and Bruce agreed with him. Bob then said he nominated Mike because he thinks Mike is the most qualified candidate, having held this position in the past.
- Brad asked if references were checked as they were last time. (It should be noted that references were neither asked for nor provided. The last time to which Brad referred was the nomination of Eileen Thietten in November, the Zoning Administrator for Guildhall; Chris spoke with Guildhall’s Town Clerk, who spoke positively of Eileen’s performance as ZA in that Town.) Chris said he had spoken with Mike and had phoned Alexa this morning, leaving a message on her cell phone, but had not heard back from her. Alexa said that she did not receive that message. Chris did not have a chance to speak with Sean, as Sean’s letter came in this afternoon, while Chris was out. Bob pointed out that two letters came in today, leaving a short time before the meeting tonight that had been scheduled in order to provide a nomination at the Selectboard meeting on Monday, January 9th. Chris explained that this schedule had been decided upon at the Selectboard Special Meeting on Monday, December 19, 2022. Bob pointed out that the decision was being made in a public meeting.

- Having verified that the position had been posted on December 20th, Suzy Irwin said that allowed plenty of time for applicants to apply and for the Commission to review applicants. That should be taken into consideration, she said.
- Bob reiterated that he had contemplated each of the applications and had made a motion to nominate Mike Otis, because he has the most experience of the three applicants.

The motion was then voted upon and passed unanimously. Chris repeated that help is needed and welcome on the Planning Commission and the Zoning Board of Adjustment.

WRITE A LETTER WITH THE NOMINATION TO BE SENT TO THE SELECTBOARD:

The prepared draft letter was reviewed, and amendments to the wording about when the term expires were decided upon. Bob made a motion to accept the draft letter as amended, filling in Mike's name as the nominee; Bruce seconded the motion. All voted in favor.

DISCUSS THE RESPONSE FROM ATTORNEY NICK LOW TO THE COMMISSION'S QUESTIONS:

Attorney Low responded quickly with clear answers to the questions submitted. Bob says the last question seems to need more attention: "What is the Town's responsibility for ensuring that sales and transfers of lots on Maidstone Lake adhere to the Deed Covenants and for gathering and recording data related to the implementation of the covenants, for example, dye tests?" A discussion ensued, including:

- Who pays attention to the covenants in lakeshore property deeds?
- Is it within the purview of the Planning Commission?
- The focus of the covenant - monitoring the condition of septic systems - is essential to ensuring that the Lake remains clean. This was an important point in the negotiations around the sale of Champion lands surrounding the Lake, said Bob Snowman, who was involved in those negotiations.
- Mary will check with VLCT. This topic may need a second opinion.

Bob next brought up the topic of subdivisions, an area that Chris has been researching. A discussion ensued, including:

- what the various aspects of subdivisions are that must be considered and addressed in the bylaws, in particular, the construction of private roads;
- how current bylaws address private roads; whether Act 250 and therefore the State would be involved (a question from Brad); the question of a private road being constructed and then land being subdivided off that road; can a person interested in subdividing a piece of property use an old logging road as a private road and subdivide off that land, or create a new private road and subdivide off that;
- the history of Freedom Way, an old jeep path that became a private road because of the number of houses off it, and was given a name when the Town was required to provide 911 information; the implication of that history for other potential private roads;
- Vermont Statutes related to subdivisions; subdivision review by the Town; the application of the zoning requirements in each zoning district to the individual land parcels resulting from subdivision;
- the impact of the subdivision on Town services and how those services are paid for;
- The required review process that seeks to address the many varied aspects of a subdivision; Mike suggested that attention be given to the need to specify standards for roads within subdivisions.

The consensus was that looking at subdivisions and coming up with a strategy and recommendations is a priority. More research and education about subdivisions is needed; the information can be shared amongst the Commission members, who will convene a public meeting as necessary to make any decisions regarding this issue.

In response to questions raised by Ed Tully and Jim Bennett, Bob, Chris, and Amy explained that the Town Plan and the Bylaws that reflect what is in that Plan are required by the State to be regularly updated; there is a process that must be followed, which includes public meetings and input; the Townspeople of Maidstone have in the past given the Selectboard the responsibility and authority to approve the Bylaws, after adhering to the required process, including public warnings/notices and public meetings; if citizens wish to change that approval authority and instead have the Town's voters

approve or reject Bylaws, there is a process to follow that involves submitting a petition to the Town to make that change. Chris explained that what the Planning Commission is doing at present is reviewing the Bylaws to decide if any revisions/updates are needed now to clarify the Bylaws before revising/ updating the Town Plan, after which a major revision/ updating of the Bylaws will occur to ensure that they are in conformance to and reflect the Town Plan.

DISCUSS BYLAW REVISIONS/AMENDMENTS SUGGESTED THUS FAR:

The Suggested Revisions Record is a collection of Bylaw revision suggestions from individuals that Mary has gathered together and pasted into a copy of the Zoning Bylaws where applicable, to be considered and discussed at a Planning Commission meeting. When the Commission decides officially to suggest a particular revision, Mary will record that in a master Zoning Bylaw document that tracks changes; that master document will include the current Bylaw with the suggested Bylaw amendment/revision highlighted.

The Commission then began going through the Suggested Revisions Record (posted on the website under Background Documents for this meeting), discussing each suggestion as needed.

- Use of the word “Bylaw” or “Bylaws” in the title and when referencing the entire document; currently, the entire document is entitled “Maidstone Zoning Bylaw”. Research online shows that which word is used varies from Town to Town. No decision made.
- Selectboard is one word, not two, as appears frequently in the Bylaws. Commission consensus was that this should be corrected.
- The official Zoning Map is currently in the Listers’ office, not in the Town Clerk’s office. Make sure the info in the Bylaws is correct. Consider moving the Map or obtaining another and posting it in another place in Town Hall, and reflecting that in the Bylaws.
- Table 210.3 “L” Lake: Travel trailers are not listed as either a permitted or conditional use in the Lake District, but regulations for travel trailers are recorded in §318. A discussion about this ensued:
 - Should such trailers be listed as permitted or conditional uses in the Lake District?
 - Would use of a travel trailer require a permit, and who would be responsible for monitoring adherence to regulations by travel trailers at the Lake?
 - What rules would apply to travel trailers’ septic tanks? Where can travel trailers empty their septic tanks legally? If the septic system on a lake property is designed for more bedrooms than the dwelling has, are travel trailers considered bedrooms that can qualify to use that septic system as a dump station? Would the State permit a septic system being designed to act as a dump station in that circumstance?
 - What if someone wants to rent the two travel trailers allowed in the Lake District? §318 (3) stipulates that no fee may be charged. Who monitors this to ensure that the bylaw is not being violated?

The Bylaws need to be strengthened in this area to make it clear what is permissible and what is not. Bob suggests we need to work on this one before making travel trailers either a permitted or conditional use.

- Front yard is two words; correct this as needed.
- The definition of “front yard” in the Lake District needs to be clearly communicated; this can be addressed in the Zoning Permit and by the Zoning Administrator.
- §211 Shoreland Overlay:
 - Are the regulations in this bylaw being communicated, applied, and enforced? Are some lakeshore properties classified as non-conforming in this regard (“grandfathered”)?
 - Consider revising the Guidelines and information packet that accompanies the zoning permit application to include this information and other important information from the bylaws
 - Is this in the correct place in the bylaws?
 - The Commission needs to educate itself about this; Mary will do some research to assist that process.
 - Correct the citing in §211 (3)

- §304 Curb Cuts and Drainage:
 - Maidstone has a Curb Cut Application that must be approved by the Road Commissioner/ Selectboard
 - Bob suggested adding this to the Definitions; Mary suggested adding it here as well to clearly explain the bylaw, as people often do not follow the “See XXXX” to actually read the additional information
 - Chris said the Commission should make sure Brad, as the Road Commissioner, is aware of this potential addition
 - Commission needs time to read this and consider what action to take

- §315 Family Child Care Homes:
 - Correct the Vermont Statute cited
 - Perhaps add wording about the State requirement for a license; Mary will research wording used in other towns’ bylaws
 - Discussed bylaw’s reference to what constitutes permitted single family residential use of property and what needs site plan review
 - VT Statutes do not treat this as a Home Occupation
 - Should this be listed as a Permitted Use and/or Conditional Use in the Districts’ section? What about the requirement for a site plan approval by the Zoning Board of Adjustment if “serving no more than six full-time children and four part-time children”?
 - Chris suggested that the Commission go through the General Provisions and decide if some that are not listed as Permitted or Conditional Uses in §210 District Objectives and Land Use Control, actually should be listed therein
 - Same issue with the travel trailers

- §320 Telecommunications
 - Fix typo - should be “permitting”, not “permitted”

- §322 Initiation of Construction: Construction may not be initiated under a Maidstone zoning permit for projects requiring [an Agency of Natural Resources Waste Water and Potable Water supply permit](#) until such permit is issued by the Agency under 10 VSA Chapter 64
 - Problem: a person can have an approved Maidstone zoning permit, but is not allowed to start construction until he/she has the water and septic permits;
 - do people actually adhere to this or do they start construction anyway?
 - Puts onus on Zoning Administrator to monitor the start of construction
 - What happens if you are in the midst of construction and then are denied water or septic permits by the State?
 - Does this apply to all construction or only new?
 - Sandy asks if this applies to construction of seasonal camps, which she thinks only need a holding tank; we need to clarify this
 - Should the Maidstone permit NOT be approved until the State water and septic permits are in place? Did not answer this question
 - Mike Otis said that when he was the ZA, he told people it was best to get the required State permits first, because he could not let them begin construction until the permits were in place. He wrote on the permit that it was conditional upon having the State permit from the Agency of Natural Resources in place
 - Bob said again that the onus is on the ZA to monitor this, and that writing on the permit that approval was conditional upon receiving the State permits is important
 - Chris questioned the placement of this within the Bylaws at the end of the section; Bob pointed out that overall placement is a problem - the section addressing zoning permits is far down in the Bylaws; clarity is an issue

At this point, discussion of suggested amendments stopped; at the next meeting, we will begin with Article 4.

DISCUSS AND DECIDE HOW FUTURE PC MEETINGS WILL BE HELD, IN VIEW OF JANUARY 15, 2023 END OF ACT 78'S SUSPENSION OF REQUIREMENT FOR A PHYSICAL LOCATION FOR MEETINGS OF PUBLIC BODIES:

The Commission will continue to hold hybrid meetings and will rotate the responsibility to be at Town Hall to make it available as the physical location. Amy will make sure the Commission has access. Suzy offered to participate in the rotation as needed.

The next meeting is scheduled for the second Tuesday in March, according to the Town Report, which will be on March 14, 2023 at 6.00pm. In the meantime, Commission members will be working on research, sharing what they find, and considering what Bylaw revisions are necessary or will help make the Bylaws more understandable and user-friendly. If necessary, Special Meetings will be called. Public meetings are very helpful.

Amy asked if the Commission wanted to take a vote about holding hybrid meetings. Chris said hybrid meetings are included in the Rules of Procedure that the Commission (NOTE: From the PC and ZBA Rules of Procedure: Section VI: Regular and Special Meetings. Regular meetings to conduct business of the ZBA and the PC shall be held by Zoom and/or in the Town Hall at 6 p.m. on the second Tuesdays of the months of March, June, September, and November, or as decided by the Board or the Commission at the organizational meeting in March.) Bruce said he thought the Selectboard had the authority to determine how meetings should be held. Bruce will do the research to resolve this issue. In the meantime, the Planning Commission will follow the Selectboard's own example of holding hybrid meetings, which allow so many members of the public to participate.

ADJOURN:

Bob made a motion to adjourn; Bruce seconded the motion. All voted in favor. The meeting was adjourned at 8.11pm.

ACTION ITEMS FROM THE MINUTES:

- Mary:
 - Amend the Draft Letter of Nomination and send to the Selectboard
 - Ask VLCT their opinion about this question: "What is the Town's responsibility for ensuring that sales and transfers of lots on Maidstone Lake adhere to the Deed Covenants and for gathering and recording data related to the implementation of the covenants, for example, dye tests?"
- Commission members:
 - Research information about subdivisions and share with each other
 - Strengthen the Bylaws regarding travel trailers in the Lake District
 - Decide how to clearly communicate the definition of "front yard" in the Lake District; consider including in the Zoning Permit Application and ensuring that Zoning Administrator is informing applicants
 - Consider revising and expanding an information packet to accompany the Zoning Permit Application to include more essential information from the Bylaws
 - Review and consider adding the Curb Cuts definition to §702 Term Definitions, as well as to §304 Curb Cuts and Drainage; discuss with Road Commissioner Brad McVetty
 - Consider adding wording about the State requirement for a license to §315 Family Child Care Homes
 - Consider adding a reference to need to follow all applicable Vermont Statutes, including 33 V.S.A. § 3511(7) with regard to Family Child Care Homes
 - Should Family Child Care Home be listed as a Permitted and/or Conditional Use in the appropriate districts in Article 2?
 - Go through the General Provisions and decide if some that are not listed as Permitted or Conditional Uses in §210 District Objectives and Land Use Control, actually should be listed therein

- Should §322 Initiation of Construction be moved to another place in the Bylaws to facilitate awareness?
- Should Waste Water and Potable Water Supply permits be required for approval of Zoning Permit Applications?
- Research whether or not the Selectboard has the authority to dictate how meetings are to be held, in person or hybrid

Respectfully submitted,

Mary von Alt